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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
10

11 e.DIGITAL CORPORATION,

12 Plaintiff,

13 vs.

14 RESEARCH IN MOTION LIMITED dba  
15 BLACKBERRY *et al.*,

16 Defendants;  
17

18 AND RELATED COUNTERCLAIMS.

Case No. 13cv781 DMS (WVG)

**ORDER DENYING WITHOUT  
PREJUDICE MOTION TO FILE  
DOCUMENTS UNDER SEAL**

19 In this patent infringement action Defendants seek to file under seal the entirety of their  
20 motion for judgment on the pleadings. The request is based on Defendants' desire to keep confidential  
21 a redacted version of a 2009 Patent Cross License and Settlement Agreement between Plaintiff and  
22 a third party, Plaintiff's Disclosure of Asserted Claims and Preliminary Infringement Contentions  
23 insofar as it contains proprietary information regarding the Z10 Smartphone, and the declaration of  
24 Kent W. Serrat, which allegedly contains confidential business information.

25 Sealing court records implicates the "general right to inspect and copy public records and  
26 documents, including judicial records and documents." *Nixon v. Warner Commc'ns, Inc.*, 435 U.S.  
27 589, 597 & n.7 (1978). The lack of opposition to a motion to seal therefore does not automatically  
28 resolve it. *See Foltz v. State Farm Mut. Auto Ins. Co.*, 331 F.3d 1122, 1130 & *passim* (9th Cir. 2003).  
A party requesting to seal judicial records attached to a dispositive motion "must show that

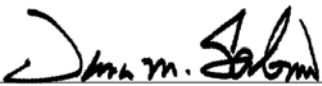
1 'compelling reasons supported by specific factual findings'" outweigh the strong presumption of  
2 access to judicial records, which favors disclosure. *Pintos v. Pac. Creditors Ass'n*, 605 F.3d 665, 678  
3 (9th Cir. 2010), *quoting Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir.  
4 2006). "[B]road allegations of harm, unsubstantiated by specific examples or articulated reasoning"  
5 are insufficient. *Beckman Indus., Inc. v. Int'l Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992).

6 The motion is based on the contention that some of the information it discloses contains trade  
7 secrets and/or that the disclosure of certain confidential information may cause irreparable harm to  
8 Plaintiff or a third party. While Defendants' premises appears to be valid, they have failed to make  
9 the appropriate showing why the entirety of their motion and exhibits should be sealed, particularly  
10 when the motion is intended to address the sufficiency of Plaintiff's allegations. No attempt has been  
11 made to identify any particular part of the filing, which exceeds 100 pages. Although some portion  
12 of the filing may be shown to rise to the compelling reasons standard, sealing of the entire filing would  
13 not be warranted.

14 For the foregoing reasons, the motion is denied. The filing, which was lodged under seal in  
15 its entirety, will not be considered. The motion is denied without prejudice to filing another motion  
16 to seal only those portions of the motion for which an appropriate specific showing is made. The  
17 Court is not inclined to seal the motion for judgment on the pleadings in its entirety. If Defendants  
18 desire the Court to consider their motion for judgment on the pleadings,<sup>1</sup> they must comply with this  
19 order no later than **July 10, 2013**.

20 **IT IS SO ORDERED.**

21  
22 DATED: July 8, 2013

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24 \_\_\_\_\_  
25 HON. DANA M. SABRAW  
26 United States District Judge

27 \_\_\_\_\_  
28 <sup>1</sup> Defendants are reminded that their filings must comply with Civil Local Rules of this  
District, including the legibility requirements of Rule 5.1(a). The proposed briefs in support of motion  
for judgment on the pleadings do not comply.